F.A.O. No. 20 of 2006

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

F.A.O. No. 20 of 1986
Date of decision: 18-10-2006

Smt. Gurbachan Kaur and others .....Appellants.

Versus

M/s Kalgidhar Roadways and others .....Respondents

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL

Present: Mr. Sarwan Singh, Senior Advocate, with
Mr. N.S. Rapri, Advocate, for the appellants.

None for the respondents.

K.S.GAREWAL,J.

This appeal has been filed against the award of learned Motor Accident Claims, Ludhiana dated September 17, 1985 whereby claim application in respect of compensation for the death ASI Diwan Chand was determined.

The accident took place on October 19, 1982 and involved bus PUI 4153 and truck PUL 3371. The bus was being driven by Bhag Singh who had tried to overtake another bus but a truck appeared from the opposite direction and rammed into Bhag Singh's bus. ASI Diwan Chand was travelling as a passenger in the above bus and he died as a result of the accident.

Late ASI Diwan Chand's widow Gurbachan Kaur, their children Surinder Kumari, Amarjit Singh, Sukhwinder Singh and parents Lehri and Arjan Dass claimed compensation. The learned Tribunal was pleased to award Rs.78240/- to the claimants payable by the driver, owner

and insurer of bus PUY 4153. Gurbachan Kaur and others have filed this appeal seeking enhancement of compensation.

It has been argued that the method of calculation of compensation was somewhat defective. The deceased was 46 years of age and his salary on the date of his death was Rs.1017.75. Learned Tribunal deducted Rs.40/- from this amount as contribution paid towards G.P.Fund and out of the balance deducted 1/3rd as the personal expenses of the deceased. On the balance multiplier of 10 was applied and total compensation was assessed.

According to the learned counsel the 1/3rd deduction was too much as the deceased was a police officer and would have been contributing more to his large family which consisted of his parents, wife and three children. The argument of the learned counsel is quite reasonable because the personal expenses of any employee do depend largely upon the size of his family. If he has a wife and two children then one could say that his own personal expenses may be as high as 1/3rd of his income but in the present case the deceased had three children and three adults to support. Therefore, in the circumstances of the case the deceased would have been contributing atleast Rs.800/- towards his family and keeping the balance for himself.

Furthermore, a multiplier of 10 in this case was on the lower side. The proper multiplier deserved to be atleast 12. The compensation payable to the claimants has to be worked out by calculating monthly dependancy of the claimants at Rs.800/- per month and multiplier of 12. On this basis the compensation payable stands enhanced to Rs.1,15,200/- from Rs. 78,240/-. The balance amount shall be paid to the claimants/appellants

by the respondents No.1,2 and 3, owner, driver and insurer of bus PUY 4153. The outstanding amount shall carry interest at the rate of 9% per annum from the date of the application till payment.

This appeal is disposed of in the above terms.

(K.S.GAREWAL)
JUDGE

October 18, 2006
RSK